



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 21, 1992

Ms. Julie A. Steidley
Assistant City Attorney
The City of Midland
P. O. Box 1152
Midland, Texas 79702-1152

OR92-354

Dear Ms. Steidley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16248.

The City of Midland received an open records request for the city police department's "radio STATION log for April 10th, 1991, from 2300 hours, to April 11, 1991 at 0200 hours." You contend that the release of the requested information would violate private citizens' right to privacy, and that the radio logs therefore come under the protection of section 3(a)(1) of the Open Records Act.

Section 3(a)(1) of the act protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision," including the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

In Open Records Decision No. 394 (1983), this office stated that the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), *i.e.*, information contained in police department offence reports, arrest sheets, and "show-up" sheets, typically did not meet the two-pronged test for common-law privacy. That open records decision further held that the information contained in police radio logs was qualitatively no different from information held to be public in *Houston Chronicle* and therefore that the radio logs

could not be withheld from the public pursuant to section 3(a)(8), the "law enforcement exception."

It is your position that the ruling in Open Records Decision No. 394 is not dispositive of the pending open records request because it did not specifically address whether information contained in police radio logs meets the test for common-law privacy. You argue:

The release of the station logs would be a publication of embarrassing facts which are not of legitimate public concern. The process of stopping a citizen and making a license or warrant check is an embarrassing experience and one to which a stigma is attached. Those citizens implicated on the station logs have a right to not have those facts made public.

However, you do not explain, nor is it apparent to this office, how the information at issue differs substantively from the information held to be public in *Houston Chronicle*. Therefore, you must release the requested information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-354.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/RWP/lmm

Ref.: ID# 16248
ID# 16356

cc: Mr. A. J. Pope
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